



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **18 VAC 90-50-30; 80 – Regulations Governing the Certification of Massage Therapists Department of Health Professions**

March 2, 2000

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The proposed regulation increases various fees paid by massage therapists to the Board of Nursing. The purpose of these fee increases is to bring the Board into compliance with the Board's interpretation of § 54.1-113 of the Code of Virginia. Section 54.1-113 requires all regulatory boards under the Department of Health Professions to revise their fee schedules if, after the close of any biennium, there is more than a 10 percent difference between revenues and expenditures. The proposed fee changes are as follows:

- Application for certification as a massage therapist will increase from \$40 to \$105;
- Biennial certification renewal will increase from \$50 to \$70;
- The penalty for late renewal of a certification will decrease from \$50 to \$25;
- Reinstatement of a lapsed certification (a certification not renewed for at least one biennium after expiration) will increase from \$50 to \$120;

- Reinstatement of a suspended or revoked certification will increase from \$50 to \$150;
- The cost of obtaining a duplicate certification would be reduced from \$15 to \$5;
- The cost of obtaining a replacement wall certificate (\$15) will now be paid to the Board rather than directly to the vendor;
- Sending a transcript of all or part of an applicant's or licensee's record will increase from \$20 to \$25; and
- The returned check charge will increase from \$15 to \$25.

## Estimated Economic Impact

These regulatory amendments are part of a broader set of fee changes proposed for the Board of Nursing. Fee increases for nurses and certified nurse aides were published in the Virginia Register on November 22, 1999. The primary effect of the proposed fee changes will be to increase licensing costs for all licensees under the Board of Nursing in Virginia by approximately \$4.8 million biannually.<sup>1</sup> Specifically, application and renewal fees paid by certified massage therapists will increase by approximately \$42,000 per year.

Under the current fee structure, the Board of Nursing projects a \$5.2 million deficit for the 2000-2002 biennium.<sup>2</sup> The proposed fee increases would substantially reduce the projected deficits during the 2000-2002 biennium and thereafter would begin to generate a modest surplus, thereby bringing the Board into compliance with the Code.

According to the Board of Nursing, several circumstances have been responsible for the failure of fee revenue to keep up with expenditures. Such circumstances include implementation of the Health Practitioner Intervention Program and, to a lesser extent, staff pay raises and related benefit increases included in the Governor's budget, Y2K compliance, installation of a new computer system, and relocation of the Department of Health Professions (DHP). These circumstances have increased costs despite other efforts to improve efficiency (i.e., the privatization of certain functions, reductions in staff, etc...) undertaken by the Department and

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<sup>1</sup> This figure reflects the difference between projected revenue for the Board of Nursing under the current fee structure and Proposal #2 (\$5,946,750 and \$10,311,590). Also included is the difference between projected revenues for the Certified Nurse Aide program (\$816,250 under the current fees and \$1,221,250 under the proposed \$45 renewal fee).

the Board during the past five years. According to DHP, the proposed fee increases are necessary so that the Board of Nursing can continue to perform its essential functions of licensing, investigations of complaints, adjudication of disciplinary cases, and the review and approval of nursing education programs. These functions sustain the supply of nurses and certified massage therapists in Virginia and protect the public from continued practice by incompetent or unethical nurses and massage therapists.

The level of the proposed fee increases, specifically the biennial renewal fee, is based on revenue and expenditure projections prepared by DHP for the Board of Nursing. The proposed amounts were selected such that projected revenues would be sufficient to cover projected expenditures but would not result in anything more than a modest surplus. The changes in fee structures are largely based on DHP's *Principles for Fee Development* and are discussed below.<sup>3</sup>

#### Application Fees

Currently, newly certified massage therapists pay only the costs of application processing and document review. They receive their first biennial certification and their wall certificate at no cost. These costs are currently borne by massage therapists in their renewal fee. The proposed application fee of \$105 includes \$25 for application processing and credential review, \$70 for one biennial renewal period, and \$10 for a wall certificate.

Though the proposed application fee is higher than the existing fee, it represents a very small portion of the total cost of entry into the massage therapist profession, which includes all education and training expenses. Therefore, this fee increase is unlikely to have a significant effect on the decision of individuals to enter or exit the profession and consequently, should not affect the number of applicants or the supply of massage therapists in Virginia.

#### Reinstatement and Late Renewal Fees

The existing regulations require all individuals who do not renew their certification by the expiration date to reinstate their certification. Reinstatement includes submission of a reinstatement application and a fee of \$50. This policy does not differentiate between persons who are merely a day late in renewing their certification from persons who have chosen to let

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<sup>2</sup> This figure reflects the sum of the \$4,615,498 deficit projected for the Board of Nursing plus the \$624,744 deficit projected for the Certified Nurse Aide Program.

their certification lapse for a lengthy period of time (i.e., someone who had left the state to practice in another jurisdiction, and then has returned to Virginia). The proposed rules would establish a \$25 late fee for licensees renewing within one biennium of the expiration date and require reinstatement for the renewal of any certifications (now lapsed) beyond the biennium. The proposed reinstatement fee of \$120 includes \$25 for application processing and document review, a \$25 late fee, and the \$70 biennial renewal fee. Applicants reinstating a suspended or revoked certification would be required to pay an additional \$30 (total fee of \$150) since a disciplinary reinstatement hearing must be held.

The Board estimates that 20 massage therapists will benefit from a reduction in the late fee from \$50 to \$25. According to DHP, the proposed fee more accurately reflects the costs incurred by the Department for processing late renewals, which cannot be processed through the automated system but must be manually entered. The estimated number of massage therapists who will request reinstatement of lapsed or suspended/revoked licenses is under 10. Licensing costs for these individuals would increase under the proposal.

#### Miscellaneous Fees

Almost all of the other proposed fee changes are intended to represent more accurately the actual cost of service. For example, the fee charged for a duplicate certification is reduced from \$15 to \$5, the returned check charge is raised from \$15 to \$25, and the fee for a transcript of an application or license record will increase from \$20 to \$25. By charging individuals for the full costs incurred on their behalf, the proposed changes are both more efficient and equitable.

#### Summary

While the proposed regulation does reduce some fees charged by the Board of Nursing, the net effect of the new fees will be an increase in application and licensure costs for massage therapists in Virginia. According to DHP, the proposed fee increases are necessary to prevent a delay in the performance of or the elimination of investigations and discipline, license renewals, and educational program approvals, a delay which could negatively affect public health and safety and reduce the supply of nurses and massage therapists in Virginia.

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<sup>3</sup> This document, dated May 20, 1999, outlines the principles by which DHP sets its licensing fees. The principles are intended to provide structure, consistency, and equity for all the professionals regulated within the Department.

## **Businesses and Entities Affected**

There are currently 2,020 massage therapists certified by the Board of Nursing in Virginia.

## **Localities Particularly Affected**

The proposed fee changes will not affect any particular localities since they apply statewide.

## **Projected Impact on Employment**

Since the application and licensure renewal fees represent a very small portion of the total cost of entry into the massage therapy profession, no significant impact on employment in Virginia is expected.

## **Effects on the Use and Value of Private Property**

The proposed fee changes are not expected to have any significant effects on the use and value of private property in Virginia.